

UNITED STATES COURTS  
SOUTHERN DISTRICT OF TEXAS  
FILED

BT NOV 19 2004

Michael H. Milby, Clerk of Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

BARBARA J. GATLIN,  
Plaintiff,

v.

DEVON ENERGY CORPORATION,  
Defendant.

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CIVIL ACTION NO.

**H-04-4439**

**PLAINTIFF, BARBARA J. GATLIN'S, ORIGINAL COMPLAINT**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**NOW COMES** Barbara J. Gatlin, hereinafter called Plaintiff, complaining of and about Devon Energy Corporation, hereinafter called Defendant, and for cause of action shows unto the Court the following:

**PARTIES AND SERVICE**

1. Plaintiff Barbara J. Gatlin, is an individual and citizen of the United States and the State of Texas and resides in Harris County, Texas.

2. Defendant Devon Energy Corporation, a Delaware Corporation, is a nonresident of the State of Texas. Said Defendant engages or has engaged in business in this State, but does not maintain a regular place of business. This lawsuit arises out of the business done in this State and to which said Defendant is a party. In addition, Defendant has designated Corporation Service Company at 701 Brazos Street #1050 Austin, Texas 78701 as its registered agent for service of process within the State of Texas. Service of said Defendant as described above can be effected by certified mail, return receipt requested.

**JURISDICTION**

3. This court has jurisdiction over the lawsuit because the action arises under 29 U.S.C. § 1132. (E.R.I.S.A.) This suit is brought by Plaintiff as a "participant" as defined by that section to recover benefits due to her under the terms of a "plan" more fully defined by 29 U.S.C. § 1002 (1)

& (3).

#### **NATURE OF ACTION**

4. This is an action under Title 29 of the Labor Code, Chapter 18, more commonly known as the Employee Retirement Income Security Program ("ERISA"). Plaintiff was provided a health insurance plan through her employment through Defendant's predecessor in interest Ocean Energy, Inc. Prior to this lawsuit Ocean Energy, Inc. was merged into/acquired by Devon Energy Corporation and is collectively referred to herein as Defendant. Defendant has failed to reimburse Plaintiff for funds expended by Plaintiff and which are rightfully recoverable by Plaintiff under the terms of the Plan.

#### **CONDITIONS PRECEDENT**

5. All conditions precedent to jurisdiction have occurred or been complied with.

#### **FACTS**

6 In 2000 and 2001 Plaintiff was an employee of Ocean Energy, Inc. and paid for health insurance benefits provided through her employment with Ocean Energy, Inc. for herself and her son Samuel. During the summer of 2000 it became necessary for Ms. Gatlin to place Samuel in an inpatient mental health care treatment facility, where he stayed from July 1, 2000 thru June 30, 2001. During the course of that treatment she paid the treatment provider (Center for Success and Independence) directly at the rate of \$225.00 per day for approximately one year. Pursuant to the terms of the Group Benefit plan provided by Ocean Energy and administered by General American Life Insurance Company, the plan was liable to reimburse Ms. Gatlin for at least 40 days per calendar year for inpatient mental health treatment. Ms. Gatlin properly and timely submitted her claims to the insurance administrator of the plan who has failed and refused and continues to fail and refuse to reimburse Ms. Gatlin for her out-of-pocket expenses.

#### **BREACH OF CONTRACT**

7. As part of Plaintiff's compensation and consideration for Plaintiff's employment with the Defendant, the Defendant was to provide health insurance benefits as above referenced. The

failure on behalf of the Defendant to provide those benefits and/or to reimburse the Plaintiff for money expended in accordance with the terms of the employee benefit plan amounts to a breach of the employment contract on behalf of the Defendant.

### **DAMAGES**

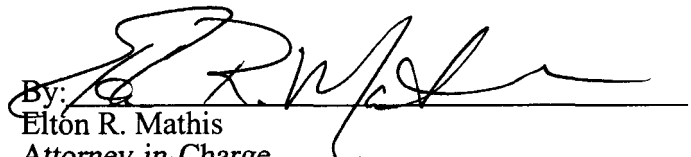
8. Plaintiff sustained the following damages as a result of the actions and/or omissions of Defendant described hereinabove:

- a. \$18,000.00 in un-reimbursed expenses/actual economic damages;
- b. All reasonable and necessary Attorney's fees incurred by or on behalf of Plaintiff;
- c. Pre-judgment and Post-judgment interest; and
- c. All reasonable and necessary costs incurred in pursuit of this suit.

### **PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff, Barbara J. Gatlin, respectfully prays that the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendant for damages in an amount within the jurisdictional limits of the Court; together with interest as allowed by law; costs of court; attorney fees and such other and further relief to which the Plaintiff may be entitled at law or in equity.

Respectfully submitted,

By:   
Elton R. Mathis  
Attorney-in-Charge  
Texas Bar No. 24014568  
1203 Avenue C  
Katy, Texas 77493  
Tel. (281)391-9237  
Fax. (281)391-0451  
Attorney for Plaintiff  
Barbara J. Gatlin

JS 44 (Rev. 3/99)

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Barbara J. Gatlin

UNITED STATES COURTS  
SOUTHERN DISTRICT OF TEXASFILED Devon Energy Corporation  
Delaware Corp.(b) County of Residence of First Listed Plaintiff Harris  
(EXCEPT IN U.S. PLAINTIFF CASES)

BL NOV 18 2004

County of Residence of First Listed  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED

(c) Attorney's (Firm Name, Address, and Telephone Number)

Elton R. Mathis 281-391-9237  
The Adams Law Firm, L.L.P.  
1203 Ave. C Katy, TX 77493

Attorneys (If Known)

H-04-4439

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☐ 1 DEF Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4 DEF
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☒ 5 DEF
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6 DEF

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl. Ret Inc. Security Act	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions				

## V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

29 USC § 1132

Break of employment contract relating to provision of health insurance benefits.

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

18,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11-19-04

SIGNATURE OF ATTORNEY OF RECORD

Elton R. Mathis

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